

Royal Institute of British Architects

Levelling Up, Housing and Communities Committee inquiry on building safety funding

The Royal Institute of British Architects is a global professional membership body driving excellence in architecture. We serve our members and society in order to deliver better buildings and places, stronger communities and a sustainable environment. Being inclusive, ethical, environmentally aware and collaborative underpins all that we do.

1. The Royal Institute of British Architects (RIBA) welcomes the opportunity to respond to this consultation on the Government's proposed funding mechanism to address the building safety crisis.
2. The RIBA broadly welcomed the announcement of an additional £4 billion fund to address building safety concerns in mid-rise buildings. Leaseholders should not be expected to cover the costs of making their homes safe – we welcome the Government's acceptance of this principal.
3. However, the RIBA has significant concerns about the quantity of funding that will be available, the scope of the new announcement and the means by which it is proposed to raise this money.
4. The RIBA recognises that cost recovery from those found to have acted improperly must be part of the solution, however we would urge the Government to recognise that as well as showing deficiencies in the construction industry, Grenfell has revealed widespread public policy mistakes and regulatory failure.
5. The scale of the building safety crisis is such that the construction industry is not in a position to meet the costs of making buildings safe.
6. The proposals to extend the Defective Premises Act to 30 years present a significant challenge to Architects who are legally required to carry Professional Indemnity Insurance. We would urge the Government to conduct an open and extensive impact assessment of these proposals before legislation is introduced.

Q1. What is your assessment of the Government's announcements on 10 January 2022 regarding building safety?

7. The RIBA broadly welcomed the announcement of an additional £4 billion fund to address building safety concerns in mid-rise buildings. However, we have significant concerns about both the quantity of funding that will be available and the means by which it is proposed to raise this money.
8. These proposals should provide some welcome relief to the many homeowners who have unduly suffered at the hands of our flawed building safety regime. We are concerned that the new funding mechanism will not raise enough money to fully address the widespread fire safety or structural defects that exist in thousands of mid- and high-rise residential buildings

Q2. Do the announcements go far enough, and what, if anything, is missing?

9. The Government's proposals to pursue a more risk-based approach to the assessment of fire safety require significantly greater explanation. Residents, building owners and those supplying mortgages and insurance lack accurate information about which materials have been used during the construction of a building and whether the measures in place to provide fire protection have been installed and maintained to an adequate standard. In the absence of this information we are concerned that mortgage lenders and insurers will remain extremely cautious. Further discussions with the financial sector are urgently required to ensure that the proposals to reduce the use of the EWS1 form do not create further uncertainty in the housing market.
10. The RIBA has previously argued that there should be greater requirements for developers to provide public sector bodies, residents and interested parties with 'as built documents' when a building reaches completion. Requiring this documentation would provide greater certainty about the composition of buildings and put greater pressure on those involved in the construction of buildings to ensure that accurate records are kept that cover the actual materials used- not just those specified in the design phase.
11. Further details of procurement reforms particularly vital. As the Committee will be aware it is notable that significant number of buildings which are affected by building safety failings are developments procured by Registered Social Landlords who will have procured the construction of these buildings through the public contracts regulations.
12. It is clear that in too many cases there was insufficient oversight of decisions made in the procurement or construction phases leading to cost cutting that has put residents at risk. Proposals to strengthen the regulation of social housing must include greater scrutiny of the procurement processes used and assessment of the impacts of short-term commercial decisions on the long-term quality and safety of new homes. It is clear that in recent years this oversight has been lacking.

Q3. What are the potential impacts of the announcements? In the case of negative impacts, how can they be addressed?

13. The extension of the Defective Premises Act to 30 years will seriously impact the availability of insurance for the entire construction sector, impacting not only architects who are needed to help design remedial works, but also others who have never worked on high-rise housing projects.
14. We would urge the Government to conduct an open and extensive impact assessment of the proposal to extend the Defective Premises Act to 30 years before legislation is introduced.
15. Given the complexity of construction projects, the range of factors which could contribute to a premises being deemed defective and the lack of regulations covering record keeping of what has been built, it is unclear as to whether there is the realistic prospect of securing compensation 30 years after a project has been completed.
16. As insurance in the construction sector is generally held on as 'claims-made' basis, the RIBA is concerned that these proposals will have a negative impact on the availability of insurance to cover historic projects. Cover for historical projects is already severely limited for most consultants meaning claims are unlikely to be met by insurers, leaving consultants unable to pay any damages, as they generally do not have assets, and leaseholders without any recourse. There are particularly significant challenges faced by those Architects who have retired or closed their businesses. Any extension of the Defective Premises Act would potentially impact on any run-off insurance they have taken.
17. Professional Indemnity Insurance is a condition of registration for Architects under the terms of the Architects Act. Recent years have seen the price of securing this insurance increase significantly at a time when there are increasing limits on the scale and scope of coverage.

Q4. How might the announcements affect the wider objectives of the Department for Levelling Up, Housing and Communities, including the building of affordable housing?

18. Improving the quality, affordability and availability of housing is rightly a key priority of the Levelling Up White Paper. It is therefore very concerning that funding will be diverted from housing delivery if sufficient funding to address building safety concerns cannot be obtained from the industry.
19. The fire-safety liabilities faced by Registered Social Landlords are a potentially significant threat to the development of affordable housing – particularly in more deprived areas and as part of wider regeneration efforts.
20. While it is vital that the Government improves oversight and regulation of affordable housing providers to prevent future quality and safety issues from arising, without

significant funding the stark reality is that there will be fewer affordable homes built in the coming years due to the need to address historic liabilities.

Q5. What would you like to see in the funding arrangement to be agreed with industry?

21. In addition to securing adequate funding from the industry, it is vital that this agreement also includes commitments to make sure that the industry is taking steps to avoid future liabilities. This should also include a commitment from the Government to review both the content and consistency of the relevant pieces of the building regulations, guidance and standards to provide greater certainty to the construction sector.